

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ALLIANCE FOR AUTOMOTIVE
INNOVATION

Plaintiff,

vs.

MAURA HEALEY, ATTORNEY GENERAL
OF THE COMMONWEALTH OF
MASSACHUSETTS in her official capacity,

Defendant.

C.A. No. 1:20-cv-12090-DPW

**PLAINTIFF’S NOTICE OF CONDITIONAL
WITHDRAWAL OF MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff Alliance for Automotive Innovation (“Plaintiff”) respectfully submits this conditional withdrawal, without prejudice, of its Motion for Preliminary Injunction (ECF No. 26), in reliance on the Stipulation filed in this action earlier today (ECF No. 50) (the “Stipulation”) by the Defendant, Maura Healey, in her official capacity as Attorney General of the Commonwealth of Massachusetts.

On November 3, 2020, the voters of Massachusetts approved Ballot Question 1, which was identified in the Red Book presented to voters as: Question 1: Law Proposed By Initiative – Motor Vehicle Mechanical Data (hereinafter the “2020 Motor Vehicle Mechanical Data Act” or the “Act”).¹ The Act makes amendments to Massachusetts General Law Chapter 93K, and is scheduled to go into effect on December 18, 2020.

¹ The full title of Ballot Question 1 was: “An Initiative Law to Enhance, Update, and Protect the 2013 Motor Vehicle Right to Repair Law.” The Attorney General’s Stipulation refers to the ballot initiative as the 2020 Right to Repair Law. For avoidance of doubt, the 2020 Motor Vehicle Mechanical Data Act and the 2020 Right to Repair Law are the same statute.

On December 1, 2020, Plaintiff filed a Motion for Preliminary Injunction, seeking to preliminarily enjoin, prior to the December 18, 2020 effective date, the enforcement of the 2020 Motor Vehicle Mechanical Data Act based on the claims in Counts I and II of Plaintiff's Complaint, which assert that the Act is preempted by the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. § 30101, *et seq.*, and the Clean Air Act, 42 U.S.C. § 7401, *et seq.*

At a status conference on December 3, 2020, the Court indicated a desire to decide the federal preemption issues raised in Counts I and II of the Complaint with the benefit of a full record after a trial on the merits on an expedited schedule in 2021, and counsel for the Attorney General agreed to consider whether the Office of Attorney General would execute a stipulation that would have the effect of preserving the status quo until after such an adjudication on the merits. The Court directed the parties to meet and confer, and report back to the Court by December 7, 2020 at 4 p.m. with a proposed schedule, and as to whether a preliminary injunction hearing is still necessary at this time.

Based on the Stipulation, including the representation that that the Office of the Attorney General does not intend to, and will not seek to, enforce the 2020 Motor Vehicle Mechanical Data Act approved through Ballot Question 1 until after the Court rules on the claims expected to be tried to the bench on an expedited schedule in 2021, Plaintiff hereby withdraws its Motion for Preliminary Injunction without prejudice. Plaintiff expressly reserves the right to renew its Motion for Preliminary Injunction if the Office of the Attorney General provides the advance notice referenced in the last sentence of the Stipulation, or if any enforcement of the 2020 Motor Vehicle Mechanical Data Act is sought prior to this Court's adjudication on the merits of Counts I and II of the Complaint.

Respectfully submitted,

PLAINTIFF ALLIANCE FOR AUTOMOTIVE INNOVATION

By its attorneys,

/s/ Laurence A. Schoen

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on December 7, 2020.

/s/ Laurence A. Schoen

Laurence A. Schoen

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